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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/631,950	07/30/2003	Ronald C. Elliot	ECC-02100	1764
28960	7590	04/11/2005	EXAMINER	
HAVERSTOCK & OWENS LLP 162 NORTH WOLFE ROAD SUNNYVALE, CA 94086			GEHMAN, BRYON P	
			ART UNIT	PAPER NUMBER
			3728	
DATE MAILED: 04/11/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary****Application No.**

10/631,950

**Applicant(s)**

ELLIOT, RONALD C.

**Examiner**

Bryon P. Gehman

**Art Unit**

3728

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 February 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-54 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-54 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

Art Unit: 3728

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 6-8, 37, 40-41 and 44 are rejected under 35 U.S.C. 102(b) as being anticipated by Cleveland (311,415). Disclosed is a paint (ink) storage apparatus comprising a container (A) divided into a plurality of storage compartments (B) by walls and a lid (C) having a plurality of orifices (a) with one orifice over each compartment, the lid mating with the walls to create a seal between the lid and walls.

As to claims 2-3, 7-8 and 40-41, the container and lid are cylindrical and circular in cross section.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3, 6-8, 12, 37, 40-41 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cleveland. Disclosed is an ink storage apparatus comprising a container (A) divided into a plurality of storage compartments (B) by walls and a lid (C) having a plurality of orifices (a) with one orifice over each compartment, the lid mating

with the walls to create a seal between the lid and walls. To employ the same structure for paint would have been obvious in order to provide different paints in plural compartments of a single container, the intent suggested by Cleveland.

As to claims 2-3, 7-8 and 40-41, the container and lid are cylindrical and circular in cross section.

As to claim 12, the container is a homogeneous material.

5. Claims 1-8, 10-12, 14-18, 20-27, 29, 32, 37, 40-48 and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davis (2,826,338). Disclosed is a liquid storage apparatus comprising a container or cup (10) divided into a plurality of storage compartments by a wall (18 or 40 or 54) and a lid (12) having a plurality of orifices (at 14 and 15) with one orifice over each compartment, the lid mating with the walls to create a seal between the lid and walls. To employ the same structure for paint would have been obvious in order to provide different paints in plural compartments of a single container, the intent suggested by Davis.

As to claims 2-5, 7-8, 10-11, 17-18, 20-21 and 40-43, the container or apparatus and lid are shaped angular (rectangular) in cross section. The shape of the container would have been an obvious matter of design choice, the shape not providing any unexpected utility.

As to claims 12, 24-27 and 45-48, the container or apparatus is a homogeneous material (metal or plastic) of a liquid impervious nature, the choice of polypropylene being an obvious choice to one of ordinary skill in the art.

As to claims 14, 29 and 50, a cap (14a or 15a) is disclosed.

As to claims 15 and 22-23, the lid includes peripheral grooves (12a and 13a) and guiding means (19).

As to claim 32, an annular ring is defined at 13.

6. Claims 1-12, 16-22, 24-28, 32-33, 37 and 40-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over one of Webster (1,157,475) and Crilly (5,746,346) in view of Ban (4,533,044). Webster and Crilly each disclose a paint storage apparatus comprising a container or cup divided into a plurality of compartments (5 and 6; 10, 11 and 13; respectively) and including painting implements disclosed as supported in the compartments. Ban discloses a paint storage apparatus with a lid (19) having a plurality of orifices (22) providing paint implement support and groove means (rim 20). To modify the paint storage apparatus of either Webster or Crilly employing a lid having a plurality of orifices aligned over each compartment would have been obvious in order to allow individual access to each compartment through the lid, as suggested by Davis et al..

As to claims 2-5, 7-11, 17-21 and 40-43, each reference discloses a cylindrical shape and a circular in cross section shape. The exact shape of the apparatus would have been a matter of design choice, the shape of the apparatus not providing any new and unexpected result.

As to claims 12, 24-26 and 45-48, the container of Davis et al. is uniformly formed of a homogeneous material (polymer resin, plastic). The exact polymer resin (polypropylene) chosen would appear to be a matter of design choice.

As to claims 9 and 19, to employ a conventional bucket shape for the paint storage apparatus would appear to have been obvious to one of ordinary skill in the art and fail to distinguish any new and unexpected result.

As to claims 28 and 49, the top of the orifices of Ban are shown as tapered to engage the painting implements.

7. Claims 13-14, 29-31 and 50-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Webster or Crilly as applied to claims 6, 16 and 44 above, and further in view of Hawkins (5,490,608). Hawkins discloses a hinged lid (18 or 22) provided with a tab to conventionally facilitate opening the lid. To further modify the combination of Webster or Crilly employing a lid with a tab as taught by Hawkins would have been obvious in order to seal the paint within the compartments and facilitate opening of the lid.

8. Claims 15, 23 and 34-36 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over the combinations of Webster and Crilly as applied to claims 6 and 16 above, and further in view of Eckhaus (2,016,488). Eckhaus disclose grooves engaging a lid to a container. To modify the prior combinations employing grooves to engage a lid

to a container would have been obvious in view of Eckhaus, in order to secure the lid to the container in a sealed manner.

9. Claims 38 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over either one of Webster and Crilly in view of Ban and Jaarsma. Webster, Crilly and Ban have been described above. Jaarsma discloses injection molding thermoplastic to comprise a container. To employ thermoplastic to provide the molded container of either one of Webster and Crilly in the manner of Ban would have been obvious, as molding heated plastic is old and well known in the container making field.

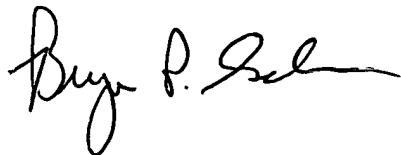
10. Applicant's arguments with respect to claims 1-54 have been considered but are moot in view of the new ground(s) of rejection. The employment of paint is not positively included in the claims, as a paint storage compartment not containing paint is not distinguishable from an empty compartment intended to carry any other liquid. Also, the concept of locating paint in compartments would be obvious in view of other containers disclosed to hold different types of contents in the same container. The new grounds of rejection predominantly employ this concept. However, providing individual orifices to individual compartments for whatever reason is maintained to be old and well known.

11. This action is made non-final in view of the new grounds of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryon P. Gehman whose telephone number is (571) 272-4555. The examiner can normally be reached on Monday through Wednesday from 5:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu, can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-4555.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Bryon P. Gehman". The signature is fluid and cursive, with the first name "Bryon" being more prominent.

Bryon P. Gehman  
Primary Examiner  
Art Unit 3728

BPG